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| 4955 7590 08/26/2009<br>WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP<br>BRADFORD GREEN, BUILDING 5<br>755 MAIN STREET, P O BOX 224<br>MONROE, CT 06468 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| WOO, KUO-KONG  |             |                      |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/574,989

**Applicant(s)**

SEBIRE ET AL.

**Examiner**

KUO WOO

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 and 16-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Information Disclosure Statement***

1. The information disclosure statement (IDS) filed on 05/30/2009 has been considered.

***Response to Arguments***

2. This action is response to applicant an amendment, mailed on May 27, 2009.
3. Claims 1-2, 4, 6, 10-11 and 13 have been amended; claims 14 and 15 have been cancelled and claims 16-23 have been newly added. Claims 1-13 and 16-23 are pending in this office action.
4. Applicant has amended claim 22 in response to non-statutory subject matter 35 U.S.C. 101 rejections. Applicant's claim 22 is directed towards a computer readable medium; however no guidance is given in the specification as to specifics of the medium. The examiner interprets the meaning of the term to one of ordinary skill in the art as applying only to statutory categories of invention. Accordingly, **35 USC § 101** the rejection to the claim is withdrawn.
5. Applicant's arguments with respect to claims 1-13 and newly added claims 16-23 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-13, 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erikson et al. (US PGPUB 2002/0167969 A1) in view of Speight US PAT 7,480,261 B2.

Regarding claims 1, 16 and 19, Erikson discloses "transmitting a transport format combination set reconfiguration message to terminal over a certain basic physical subchannel" (§56, The **TFCS** descriptor is received from **a control plane layer** of the transceiver and o each TFCS descriptor is associated with **a corresponding call identifier (call ID)**, also provided from the control plane layer at 27 and for use **during the associated call.**),

"If TFCs reconfiguration message **indicates a change in the size of TFCIs**, (§66, as shown in **FIG. 6**, the **TFCS descriptor includes a field which specifies the size** of the radio block (see also 200 in FIGS. 2 and 41 in FIG. 4) and (§70, FIG. 9 illustrates in tabular format various exemplary **radio block sizes which can be specified by the radio block size field value of the TFCS descriptor**), a field which specifies the number of TFCs available for use during the call), checking a parameter value (a field which specifies the type of CRC coding/decoding that will be applied in L1TC(TFCI), a field which specifies the type of error correction coding/decoding that will be implemented in L1TC(TFCI)) related to said terminal, and starting to use a new configuration indicated by the TFCS reconfiguration (In some embodiments, **L1TC(TFCI) is configured to provide better performance than the most robust of**

L1TC(1) . . . L1TC (NM)) message or staying with set reconfiguration as result of the checking."

However, Eriksson does not explicitly disclose choice of configuration.

In an analogous art, Speight discloses (Abstract, A physical shared channel allocation message (220) is sent containing a plurality of occurrences of allocated physical resources and TFCS IDs; and, at a radio unit (130A), the sent physical shared channel allocation message is received and the plurality of occurrences of allocated physical resources and TFCS IDs contained therein are processed, thereby allowing a plurality of CCTrCHs to be allocated with a single physical shared channel allocation message (220)) and ( Col. 3, Lines 32, PHYSICAL SHARED CHANNEL ALLOCATION message is modified to be able to allocate multiple CCTrCh's. In this way shared channel allocations mirror the way in which DPCHs are allocated in the IE `downlink DPCH info for each RL` in that multiple CCTrCHs can be allocated in a single message) and (Col. 4 Lines10, if the CHOICE "Configuration" has the value "New configuration": configure the physical resources according to the information given in IE "PDSCH Info") and (Col. 4, Lines 17,., If IE "Common timeslot info" or IE "PDSCH timeslots and codes" IE are not present in IE "PDSCH Info": reuse the configuration specified in the previous "PHYSICAL SHARED CHANNEL ALLOCATION" message for this CCTrCH), wherein new configuration or stay with the existing configuration is depending on TFCS reconfiguration message.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Eriksson teaching in TFCS configuration and

combination of Speight provides a plurality of composite transport channels to be allocated with a single physical shared channel allocation message) (see Col. 1 lines 64).

Rationales for arriving at a conclusion of obviousness suggested by the Supreme Court's decision in KSR include:

Combine prior art elements according to known method to yield predictable result.

Regarding claims 2 and 17, "wherein the one transport format combination relates to exactly one active transport channel with a predetermined block size and Cyclic Redundancy Check size" Eriksson discloses (¶ 066, during transmission is implicitly known from knowing the number TFCs), a field which specifies the type of CRC coding/decoding that will be applied in L1TC (TFCI), a field which specifies the type of error correction coding/decoding that will be implemented in L1TC(TFCI)), wherein according to TFC apply radio block with CRC size.

Regarding claim 3, "wherein said parameter indicates a change of a basic physical sub channel utilized by the terminal (physical radio channels) and ordered by the network (GERAN or UTRAN)". Eriksson discloses (¶ 07, in conventional radio access networks such as GERAN or UTRAN, layer one of the radio interface provides transport channels which either transport information from higher layers to the actual physical radio channel(s), or which transport information received from the actual physical radio channel(s) to the higher layers), wherein basic channel utilized by radio terminal and ordered by network.

Regarding claims 4 and 18, has limitations similar to those treated in the above claim 3 rejection(s), and are met by the references as discussed above.

Regarding claim 5, "wherein said certain identifier is valued zero" Eriksson discloses (§99, FIG. 14 illustrates exemplary operations which can be performed in response to Send Up bits when incremental redundancy is supported. At 141, L1TC (TFCl) is enabled so that the TFCl information can be examined to determine which TFC is being used) and (§100, Soft values are real numbers, indicating both the value (1 or 0) of a received bit, and the likelihood that the bit was correctly received), wherein certain identifier is valued zero.

Regarding claims 6 and 21, Eriksson discloses "wireless system utilizes GSM/EDGE radio access network" (§04, the radio access network 11 can be, for example, the GSM/EDGE radio access network (GERAN)).

Regarding claim 7, "wherein the one transport format combination with the certain transport format combination identifier indicated by the transport format combination set reconfiguration message is independent of the other transport format combinations indicated by the message" Eriksson discloses (§65, The RRC (or RR) layer can be designed according to the invention to find a suitable configuration (specified by a TFCS descriptor) of layer one transport channels to fulfill the requirements in the RAB request, and at the same time economize with respect to resource utilization in the radio access network), and (The RRC (or RR) layer in GERAN (for example in a BTS of GERAN) can send the TFCS descriptor to the physical layer of GERAN, and can also send the TFCS descriptor to the RRC (or RR) layer of the mobile

station), wherein each reconfiguration message can send to physical layer or RRC layer.

Regarding claim 8, "wherein the size (Value) of transport format combination identifiers is fixed" Eriksson discloses (§57, The assembler 16 can assign transport format combination indicators (TFCIs) which uniquely identify the respective transport format combinations of the set specified by a given TFCS descriptor. The transport format assembler 16 can use the TFCI to index each of the transport format combinations in the storage device 14, and the call ID can be used to index the desired transport format combination set in device 14. The assembler 16 can assign TFCI values, for example, in the order in which it produces and stores the TFCs of the TFCS), wherein size of TFCS uniquely identify by TFCS descriptor.

Regarding claim 9, "wherein the size is fixed to a maximum allowable size" Eriksson discloses (§57. In some embodiments, TFCI for a given TFCS can have values from "1" through the total number of TFCs in the TFCS), wherein maximum allowable size is total number of TFCs in the TFCS.

Regarding claim 10, Apparatus (device) claims are drawn to the apparatus corresponding to the method of using same as claimed in claim 1. Therefore apparatus claims 10 correspond to method claim 1, and are rejected for the same reasons of (anticipation or obviousness) as used above.

Regarding claim 11," is substantially a base station, a base station controller, a combination of a base station and a base station controller, or a mobile station". Eriksson discloses (§ 52, a radio transceiver within a mobile station of the type generally



shown at 13 in FIG. 1, or a radio transceiver within a base transceiver station (BTS) of the type generally shown in FIG. 1), wherein system include base station and mobile station.

Regarding claim 12, has limitations similar to those treated in the above claim 11 rejection(s), and are met by the references as discussed above.

Regarding claim 13, has limitations similar to those treated in the above claim 3 rejection(s), and are met by the references as discussed above.

Regarding claim 20, Eriksson discloses "wherein said device is a base station (¶13, FIG. 1 diagrammatically illustrates a conventional example of a PLMN coupled to a mobile station (MS) 13 via a physical radio interface 17, The PLMN includes a radio access network 11 coupled to a core network 15) or a mobile station".

Regarding claims 22 and 23, Speight disclose " a computer readable medium (Col. 7, Lines 3, A computer readable medium encoded with computer program instructions) for performing a process, the computer program instructions comprising instructions embodying a computer program comprising code to perform the method of claim 1 and 16.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KUO WOO whose telephone number is (571)270-7266. The examiner can normally be reached on Monday through Friday 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/KUO WOO/

Examiner, Art Unit 2617

/Lester Kincaid/

Supervisory Patent Examiner, Art Unit 2617